



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	15
VAC Chapter Number:	20
Regulation Title:	Regulations for the Control and Supervision of Virginia's Dairy Industry
Action Title:	Periodic Regulatory Review
Date:	May 21, 2003

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

The regulation provides for the supervision, regulation, and control of the production, processing, transportation, storage, disposition, and sale of fluid milk. Provisions establish mechanisms to provide for an orderly marketing environment to provide a constant and available supply of milk to Virginia citizens that is equitably and reasonably priced.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Section 3.1-430(g) of the Code of Virginia provides the authority for the State Milk Commission to promulgate regulations. This section provides that the Commission is to make, adopt, and enforce all rules, regulations, and orders necessary to carry out the purposes of Chapter 21 Article 2 of the Code and is mandated.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comment was received on 2 VAC 15-20-10 through 2 VAC 15-20-90; and 2 VAC 15-20-110 through 2 VAC 15-20-130.

A large retail grocery chain operating in Virginia recommended that the retail below cost selling prohibition in 2 VAC 15-20-100 Rules of Practice be modified to enable retailers to sell fluid milk products at less than cost. They contend that allowing this practice will increase sales volume and thus the return to dairy farmers.

The State Milk Commission does not believe that there is sufficient evidence and justification to warrant a repeal of the regulations to allow retail below cost selling. This is the same request made by the same firm in the last regulatory review which resulted in a significant study and analysis. Both the previous review and this review of this request do not indicate any compelling facts, documented proof, or compelling reason for the Commission to take this action. The commentator does not offer any alternative to the current regulation that would enable the Commission to continue to provide for the market stability provided by the regulation.

The primary purpose to this aspect of the regulations is not to restrict the business activities of retail grocery chains. Rather, it is to provide for market stability through the maintenance of retail prices at competitive levels at or above costs. Market stability may be defined as circumstances which exist which will not lead to retail or wholesale negative pressure on producer prices which will influence milk production in a downward direction.

There will not be another study of this matter, as a extensive analysis and study was performed during 2001, with the Commission retaining the regulation due to a lack of compelling evidence to do otherwise. The Commission made this determination in December 2001 and only 17 months have transpired since that decision.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The principle goal of this regulation is to provide for the control necessary to provide a constant and available supply of milk to Virginia citizens at equitable and reasonable prices. This may be measured by the supply of milk available to meet the sales demand at producer prices competitive with adjacent markets. The regulation has afforded the production of milk in sufficient quantities to satisfy sales demand, and at prices which are competitive with adjacent markets. The regulation is deemed to be essential to the public health and welfare of Virginia citizens through the provision of a vital food source. The regulation impacts the institution of the family through the maintenance of an adequate and constant supply of a vital food source.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The Commission believes that the existing regulations are the least burdensome method of achieving the purpose of the regulation as the regulated industry and consumers have significant input into their promulgation. Additionally, no alternatives were proposed during this review..

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The Commission assumes the following in the absence of any compelling public comment or evidence to the contrary on the aforementioned regulations:

1. There is no need to develop, amend, or repeal these regulations.
2. There is an essential need for the regulations.
3. The regulations do not interfere in public enterprise or life.
4. There is no less burdensome and intrusive alternatives to the regulation.
5. The regulations meet the specific goals that they are intended to achieve.
6. The regulations are clearly written and easily understandable.
7. The regulations are efficient, effective and their cost of compliance is not burdensome.

Regulations 2 VAC 15-20 will be retained in their present form due to the lack of compelling evidence to the contrary.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

This regulation has direct impact on the institution of the family farm and family family stability. It does not effect the authority of parents in the education, nuturing, and supervision of children. It does impact the economic stability of the familly farm. It does not effect economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents of non farm family. It does effect disposable farm family income. It does not effect disposable non farm family income. The regulation only impacts non farm families to the extent of the availablity of a vital healthy food source at reasonable and equitability prices.